AO 241 (Rev. 09/17)

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

25cv242 KWR/JHR

nited States District Co	urt	e de la companya de l	D	strict: 10	2th Judicia	District Court
Jame (under which you were co	onvicted):					Docket or Case No.:
Walte A	4 Flo	185				D-1226-CR-2022-0009
lace of Confinement:		ę.			Prisoner No.:	
Portheastern Com	ectional	Facility	· · · · · · · · · · · · · · · · · · ·		90819/	542847
etitioner (include the name un	•	,		-		aving custody of petitioner)
Valte MF	lores	a a Markey at 18 at 18	~ v H	nora	ble John	P. 5099
e distribution in Anglish an Problema and in the anglish		i Bartiti (j. 1900.) 1905. – Aleksaria (j. 1909.)			U	No. FIT
he Attorney General of the	e State of:	aul Torr	ez)	Ne	w Mext	MAR 07 2000 CO
				V - 1		DERQUE, NEW ME
Land Contract			TITION			"'AK 117
					M	MAR 07 2025 P
(a) Name and loca	tion of court th	nat entered the jud	gment of	conviction	on you are challen	TICHELL R. ELFERS
12th JU	dicial	Dist	ict	L	port	Appropriate to the second seco
P.O. BO						
Carrito	20, N	in				
(b) Criminal docke			D-	1226	6-CR-202	2-00091
(a) Date of the judg	gment of conv	iction (if you know	v): 05	102	/23	W. A. C.
(b) Date of sentence	ing: 05/2	5/23,05	5/30/	23		
Length of sentence		and the state of t				en e
In this case, were y	/				han one crime?	Yes 🗆 No
Identify all crimes	of which you	were convicted an	d sentenc	ed in this	case:	graveted
Assault	with	a dea	dly	W	lapon	<u></u>
1) Aggrava	ited	Battery	wi	th	a de	adly weapon
			:			
		- 14				
(a) What was your	plea? (Check o	one)				
	(1)	Not guilty	0	(3)	Nolo contender	e (no contest)
	(2)	Guilty	О	(4)	Insanity plea	

2	you plead guilty to and what did you plead not guilty to?
-	
-	
_	
-	
((c) If you went to trial, what kind of trial did you have? (Check one)
	Jury 🗇 Judge only
D	Did you testify at a pretrial hearing, trial, or a post-trial hearing?
	ØLYes □ No
D	rid you appeal from the judgment of conviction?
	文 Yes □ No
ſf	you did appeal, answer the following:
) Name of court: New Mexico Lourt of Appeals
	Docket or case number (if you know): A-I-CA-41586
	Result: Mandate / Affirmed
	Date of result (if you know): $06/27/24$
n	Grounds raised: 1) Sofficiency of the Evidence
١	Ineffective Assistance of Counsel
1	INETTECLIVE MSS. Scance of Lounsel
·)	Did you seek further review by a higher state court? Yes INO
,	If yes, answer the following:
	(1) Name of court: Supreme Court of New Mexico (2) Docket or case number (if you know): 5-1-5C-40428
	(3) Result: Denied Mandate back to District
	IPA. MINIMAL DOLK to 1): 64014

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		(4) Date of result (if you know): May 28, 202	14		
		(5) Citation to the case (if you know):			
		(6) Grounds raised:) Sufficiency of the	Ev:0	lence, 2) Inef	fection
-		Assistance of Counsel. "Walter see			
		Appeals menorandom opinion pursuant			
	1	for porposes of exhaustion. US Const. Amend. V			
		Did you file a petition for certiorari in the United States Supreme Cou	•	,	No
		If yes, answer the following:	a liver of	the transfer and the	
		(1) Docket or case number (if you know):		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
		(2) Result:			
			1 1	:	
		(3) Date of result (if you know):	11 1 1 1	or the second of	
		(4) Citation to the case (if you know):			
10.	Other	er than the direct appeals listed above, have you previously filed any	other petit	ions, applications, or mo	tions
	conce	erning this judgment of conviction in any state court?	J Yes	🕱 No	
11.	If you	our answer to Question 10 was "Yes," give the following information	:		
	(a)	(1) Name of court:		100	
		(2) Docket or case number (if you know):			
		(3) Date of filing (if you know):			
		(4) Nature of the proceeding:			
		(5) Grounds raised:			
				- A-17	v
			1		
		(6) Did you receive a hearing where evidence was given on your	r petition, a	application, or motion?	
		☐ Yes ☐ No			
		(7) Result:			

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(8) Date of resi

(8) Date of result (if you know):
(b) If you filed any second petition, application, or motion, give the same information:
(1) Name of court:
(2) Docket or case number (if you know):
(3) Date of filing (if you know):
(4) Nature of the proceeding:
(5) Grounds raised:
(6) Did you receive a hearing where evidence was given on your petition, application, or motion?
🗇 Yes 💢 No
(7) Result:
(8) Date of result (if you know):
(c) If you filed any third petition, application, or motion, give the same information:
(1) Name of court:
(2) Docket or case number (if you know):
(3) Date of filing (if you know):
(4) Nature of the proceeding:
(5) Grounds raised:

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	((6) Did you	receive a l	hearing wher	e evid	ence was given	on y	our petition	, applic	ation, or 1	motion?	?
		☐ Yes	X No									
	((7) Result:										
	((8) Date of r	esult (if y	ou know):						2.		
	(d) Did yo	ou appeal to	the highe	st state court	having	g jurisdiction o	ver th	ne action tak	en on y	our petiti	on, app	lication,
	or motion	?								nat gra		
	(1) First pet	ition:	☐ Yes	×	No		1 1	nr 85.	en grande de		
	(2) Second	etition:	□ Yes	A	No						
				☐ Yes		No						
	(e) If you	did not appe	eal to the l	nighest state	court l	naving jurisdict	tion, e	explain why	you di	d not:		
GRO U.	supporting CAUTIO state-cour	y each groun N: To proce rt remedies he grounds	eed in the on each g in this pe	gal argumen federal cour ground on we etition, you n	ts mus rt, you hich y nay be	ional pages if y it be submitted a must ordinar ou request act to barred from	in a s rily fi tion k pres	separate men irst exhaust by the feder enting addi	morand t (use u al cour tional	um. p) your a rt. Also, i grounds a	ıvailabl if you f	le fail to set
(a) Supp (b) Con) In	corting facts tradic effect	ting	gue or cite <i>Wal</i> 255; 4	e law. Just sta Frants Stance	te the	specific facts to TIME) f Coo.	ASC	upport your	claim.)			
								1				
										, ·		
											,	
(b) If yo	u did not ex	khaust your	state reme	dies on Grou	md Or	ne, explain why	<i>7</i> :	Did	f	ile	C	
)/ i	t st	f cer	tion	ari	21	Mai						
upre	me C	ourt	of	New	i	Maj 1ex:co.	,					

	Direct Appeal of Ground One:									
	(1) If you appealed from the judgment of conviction, did you raise this issue?	À	Yes		No					
	(2) If you did not raise this issue in your direct appeal, explain why:									
st-	Conviction Proceedings:									
	(1) Did you raise this issue through a post-conviction motion or petition for habeas co	rpus	in a sta	ite trial	court'					
	☐ Yes 💢 No									
	(2) If your answer to Question (d)(1) is "Yes," state:									
	Type of motion or petition:									
]	Name and location of the court where the motion or petition was filed:									
J	Docket or case number (if you know):									
I	Date of the court's decision:									
F	Result (attach a copy of the court's opinion or order, if available):									
- (:	3) Did you receive a hearing on your motion or petition?	0	Yes	Ø	No					
(4	4) Did you appeal from the denial of your motion or petition?		Yes	Ŕ	No					
(5	5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?		Yes	•	No					
(6	5) If your answer to Question (d)(4) is "Yes," state:									
N	Name and location of the court where the appeal was filed:									
D	ocket or case number (if you know):									
D	ate of the court's decision:									
R	esult (attach a copy of the court's opinion or order, if available):									
(7)	If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did n	ot ra	ise this	issue:	_					

	ner Remedies: Describe any other p			^			
used to	exhaust your state remedies on Gro	ound One: <u>u</u>	Irit	oť	ce.	rtiora	<u>Λ΄.</u>
				Λ.			
GROU	ND TWO:	open	iA	teder	al -	Cowt	-
						<u> </u>	Talk Tolk 1887
a) Sup	porting facts (Do not argue or cite la	aw. Just state the	e specific fa	cts that suppo	ort your o	claim.):	
						e e	
· · · · · · · · · · · · · · · · · · ·			1000	in the second of the second	. n. ii , ye, ii	tings general	
					,		1 4
		1,3 - 12 - 1,1 - 3	of segion is			4 . 1 . 4 . 4 . 4 . 4 . 4 . 4 . 4 . 4 .	
				1 20			er i er
	·					e je sije e	17 11 1
	ou did not exhaust your state remedi	ies on Ground T	wo, explain				
		ies on Ground T	wo, explain		25-E	:5	open
1	Federal District	ies on Ground T	wo, explain	why: C	15-C	15	open
1	Fedval D.str.ct Direct Appeal of Ground Two:	ies on Ground T	wo, explain	why: C	15-C		open
1	Federal District Direct Appeal of Ground Two: (1) If you appealed from the judgment of the property of the p	les on Ground T	wo, explain	why:	15-C	i 5 -□ -Yes	open X-No
1	Fedval D.str.ct Direct Appeal of Ground Two:	les on Ground T	wo, explain	why:	15-C		open X-No
1	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in	les on Ground T	wo, explain	aise this issuwhy:	15-C	i 5	open X-No
1	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in	nent of conviction	wo, explain	aise this issumbly:	15-C	i 5	open X-No
2)	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in Post-Conviction Proceedings:	les on Ground To	wo, explain	aise this issumhy:	25-C	∵ Yes	open X-No
1	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in Post-Conviction Proceedings: (1) Did you raise this issue through	les on Ground To	wo, explain	aise this issumhy:	25-C	∵ Yes	open X-No
2)	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in Post-Conviction Proceedings:	les on Ground To	wo, explain	aise this issumhy:	25-C	∵ Yes	open X-No
b) If you	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in Post-Conviction Proceedings: (1) Did you raise this issue through	nent of conviction your direct app	wo, explain ton, did you repeal, explain	aise this issumhy:	25-C	∵ Yes	open X-No
0)	Direct Appeal of Ground Two: (1) If you appealed from the judgm (2) If you did not raise this issue in Post-Conviction Proceedings: (1) Did you raise this issue through Yes No (2) If your answer to Question (d)(nent of conviction your direct app	wo, explain ton, did you repeal, explain	aise this issumhy:	25-C	∵ Yes	open X-No

Docket or case number (if you know):

Result (attach a copy of the court's opinion or order, if available):				
				-
(3) Did you receive a hearing on your motion or petition?	0	Yes	0	N
(4) Did you appeal from the denial of your motion or petition?	О	Yes		N
(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?	О	Yes		N
(6) If your answer to Question (d)(4) is "Yes," state:				
Name and location of the court where the appeal was filed:	····			
Docket or case number (if you know):				
Date of the court's decision:	7.			
Result (attach a copy of the court's opinion or order, if available):			778	
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did	not ra	ise this	issue:	
	not ra	ise this	issue:	
				at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administrati				at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administration as the exhaust your state remedies on Ground Two:				at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administrati				at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administration as the exhaust your state remedies on Ground Two:	ve ren			at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administration ave used to exhaust your state remedies on Ground Two:	ve ren			at :
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administration ave used to exhaust your state remedies on Ground Two:	ve ren			at
(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did Other Remedies: Describe any other procedures (such as habeas corpus, administration ave used to exhaust your state remedies on Ground Two:	ve ren			at

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AO 241 (Rev. 09/17) (b) If you did not exhaust your state remedies on Ground Three, explain why: (c) Direct Appeal of Ground Three: (1) If you appealed from the judgment of conviction, did you raise this issue? (2) If you did not raise this issue in your direct appeal, explain why: (d) **Post-Conviction Proceedings:** (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? ☐ Yes (2) If your answer to Question (d)(1) is "Yes," state: Type of motion or petition: Name and location of the court where the motion or petition was filed: Docket or case number (if you know): Date of the court's decision: Result (attach a copy of the court's opinion or order, if available): (3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No □ No ☐ Yes (4) Did you appeal from the denial of your motion or petition? □ No (6) If your answer to Ouestion (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: Docket or case number (if you know): Date of the court's decision: Result (attach a copy of the court's opinion or order, if available):

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	(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:
(e)	Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you
	have used to exhaust your state remedies on Ground Three:
GR	OUND FOUR:
(a) S	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
~··~	
(b) If	f you did not exhaust your state remedies on Ground Four, explain why:
, ,	
(c)	Direct Appeal of Ground Four:
	(1) If you appealed from the judgment of conviction, did you raise this issue?
	(2) If you did not raise this issue in your direct appeal, explain why:
(d)	Post-Conviction Proceedings:
	(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?
	□ Yes □ No
	(2) If your answer to Question (d)(1) is "Yes," state:
	Type of motion or petition:

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(e)

Docket or case number (if you know):			
Date of the court's decision:	-		
Result (attach a copy of the court's opinion or order, if available):			
	_		
3) Did you receive a hearing on your motion or petition?	О	Yes	□ No
4) Did you appeal from the denial of your motion or petition?	٥	Yes	□ No
5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?		Yes	□ No
6) If your answer to Question (d)(4) is "Yes," state:			
Name and location of the court where the appeal was filed:			
Pocket or case number (if you know):			
Pate of the court's decision:			
desult (attach a copy of the court's opinion or order, if available):			
tesult (attach a copy of the court's opinion or order, if available):		.01	
tesult (attach a copy of the court's opinion or order, if available):			ssue:
Lesult (attach a copy of the court's opinion or order, if available):			
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Lesult (attach a copy of the court's opinion or order, if available):			
Lesult (attach a copy of the court's opinion or order, if available):			
Result (attach a copy of the court's opinion or order, if available): 7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did n			
Result (attach a copy of the court's opinion or order, if available): 7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did n	ot ra	ise this i	ssue:
Lesult (attach a copy of the court's opinion or order, if available): [Property of the court's opinion or order, if available]: [Property of the court's opinion or order, if available]: [Property of the court's opinion or order, if available]: [Property of the court's opinion or order, if available]: [Property of the court's opinion or order, if available]: [Property of the court's opinion or order, if available]: [Property of the court's opi	ot ra	ise this i	ssue:
esult (attach a copy of the court's opinion or order, if available): 7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 8) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 9) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available): 1) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(5) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d)(6) is "No," explain why you did not be seen to the court's opinion or order, if available (d) is	ot ra	ise this i	ssue:
ther Remedies: Describe any other procedures (such as habeas corpus, administrativ	ot ra	ise this i	ssue:
ther Remedies: Describe any other procedures (such as habeas corpus, administrativ	ot ra	ise this i	ssue:

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	se answer these additional questions about the petition you are filing:
(a)	Have all grounds for relief that you have raised in this petition been presented to the highest state court
	having jurisdiction? Yes No
	If your answer is "No," state which grounds have not been so presented and give your reason(s) for not
	presenting them:
(b)	Is there any ground in this petition that has not been presented in some state or federal court? If so, which
	ground or grounds have not been presented, and state your reasons for not presenting them:
Have	you previously filed any type of petition, application, or motion in a federal court regarding the conviction
that ye	ou challenge in this petition? Yes No
If "Ye	s," state the name and location of the court, the docket or case number, the type of proceeding, the issues
	the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy
	court opinion or order if available
Do you	have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal for
the judg	gment you are challenging? Yes No
the judg	gment you are challenging? Yes No
the judg	gment you are challenging? Yes No
the judg	have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for ment you are challenging?
the judg	gment you are challenging? Yes No

	Give the name and address, if you know, of each attorney who represented you in the following stages of the
	judgment you are challenging:
	(a) At preliminary hearing: Rachael Sotherland, Stephen ochoa, Shane
	(a) At preliminary hearing: Rachael Sother land, Stephen Ochoa, Shane 206 Sudderth Dr., Ruidoso, NM 88345
	(b) At arraignment and plea: Shane Brill, Rachael Sutherland, Stephen O
	206 Sudderth Dr. Ruidoso, NM 88345
	(c) At trial: Shane Brill, Rachael Sutherland, Stephen Ochoa
	206 Sudderth Dr. Rvidoso, UM 88345
	(d) At sentencing: Shane Brill, 206 Sudderth Dr, Ruidoso, UM 8834
	Todd Holmes, 1013 Arapaho Trail, P.O. BOX 4065, Alamogordo, NN
	(e) On appeal: Todd Holmes 1013 Arapaho Trail, P.O. Box 4065, Alamogord
Į	Brian Parrish, 1422 Pasco de Peralta, Bldg 1, Santa Fe, NM 873
	(f) In any post-conviction proceeding:
	androne in the second of the control
	(g) On appeal from any ruling against you in a post-conviction proceeding:
	i kultura kungan kengguah mengan kengguah dan kanggan beranggan kengguah dan kengguah dan kengguah dan kengguah Banggan kengguah kengguah mengguah kengguah dan kengguah beranggan kengguah dan kengguah beranggan beranggan b
	and the state of the second
	Do you have any future sentence to serve after you complete the sentence for the judgment that you are
	challenging? Yes No
	(a) If so, give name and location of court that imposed the other sentence you will serve in the future:
	(b) Give the date the other sentence was imposed:
	(c) Give the length of the other sentence:
	(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the
	future?
	TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain
	why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*
	4:00

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				 *** *** *** ***		

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

^{*} The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

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(2)			properly filed application dgment or claim is pendi				
	under this subsect	ion.					
Therefore, peti-	ioner asks that the C	ourt gra	nt the following relief:) Vac	ate a	charges.	
A Talucky	e Rollet	a f	41800 nolda	y for	Falsa	Imprison	ment

Injuctive 1	Relief of	\$1800.00	Iday f	or False	Imprisonment.
or any other relief to w	hich petitioner may	be entitled.			
			Signature	of Attorney (if any)
			· ·		
I declare (or certify, ve	rify, or state) under	penalty of perjury	hat the foregoing	is true and correct a	and that this Petition for
Writ of Habeas Corpus	was placed in the p	orison mailing syste	m on 3/6/	25 (I	month, date, year).
Executed (signed) on	3/6/23	(date).			
				· · · · · · · · · · · · · · · · · · ·	
		(Del	WIN	7/-9081	9/542847
		0 <u>~ 42</u> 2	<u> </u>	cure of Petitioner	(/
If the person signing is	not petitioner, state	relationship to peti	tioner and explain	1 why petitioner is n	iot signing this petition.
				· · · · · · · · · · · · · · · · · · ·	

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1 buguerque, NM 87102 clerk

